

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHANNON E. REED,

Defendant.

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CASE NO. 8:05CR65

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report ("PSR"). The government has adopted the PSR. (Filing No. 40.) See "Order on Sentencing Schedule," ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) states that the most readily provable amount of crack cocaine for which the Defendant is responsible is 6.2 grams. The PSR, however, arrives at a quantity of 24 grams of crack cocaine, resulting in base offense level 28. The Court's tentative findings are that, absent unusual circumstances, the Rule 11(c)(1)(C) plea agreement should be upheld. The base offense level is level 26, the adjusted offense level is 26, the total offense level is 23, and the fine range is \$10,000-\$1,000,000.

IT IS ORDERED:

1. The Court's tentative findings are that the plea agreement should be upheld;
2. The parties are notified that my tentative findings are that the PSR is correct in all other respects;

3. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this order, my tentative findings may become final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 27th day of June, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge